

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Attorney Docket No.: 1798.50US05

Brewer et al.

Confirmation No.: 8486

Application No.: 10/760,040

Examiner: Scott M. Getzow

Filed: January 16, 2004

Group Art Unit: 3762

For: METHOD AND APPARATUS FOR DELIVERING A BIPHASIC DEFIBRILLATION PULSE  
WITH VARIABLE ENERGY

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TERMINAL DISCLAIMER TO OBVIATE A DOUBLE  
PATENTING REJECTION OVER A PRIOR PATENT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The owner, Cardiac Science Corporation, of the entire interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior U.S. Patent Nos. 6,263,239 and 5,968,080. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a

maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer filed.

The Commissioner is hereby authorized to charge Deposit Account 16-0631 in the amount of \$130.00 in payment of the fee required under 37 CFR § 1.321(b) and § 1.20(d). The Commissioner is hereby authorized to grant any extension of time necessary for consideration of this paper, and/or to charge any fee or credit any overpayment to Deposit Account No. 16-0631.

The undersigned is an attorney or agent of record.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'BRP', with a long horizontal flourish extending to the right.

Brad Pedersen  
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*Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 16-0631.*